

No. 23-16141

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Robert F. Kennedy, Jr.,

Plaintiff-Appellant,

vs.

Google LLC, and YouTube, LLC,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California

No. 3:23-cv-03880

Hon. Trina Thompson

**DECLARATION OF ROBERT F. KENNEDY JR. IN SUPPORT OF HIS
EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL**

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DECLARATION OF ROBERT F. KENNEDY, JR.

I, Robert F. Kennedy, Jr., declare as follows:

1. I am the Plaintiff/Appellant in this matter, a member of the Democratic Party and a candidate for President of the United States. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called to do so.
2. I am submitting this declaration in support of my motion for an emergency injunction pending appeal that would prohibit Defendants Google LLC and YouTube, LLC, from using their medical misinformation policy to censor videos of me speaking on matters of public concern during my campaign.
3. I have spoken regularly about the safety and efficacy of vaccines over the past decade. Videos of my comments were often posted on YouTube. To my knowledge, none of those videos caused any harm to anybody and none of the videos were removed from YouTube until the COVID-19 pandemic. Indeed, to my knowledge, I was not censored on YouTube until 2021, after my opponent, Joe Biden, took office and after Google adopted a new policy, dubbed the “vaccine misinformation policy.” That is the policy that Google has cited most frequently during the past two years when removing videos of my speech on matters of public concern. I understand that Google recently merged its vaccine misinformation policy with another policy (the COVID-19 misinformation policy) to create a

single medical misinformation policy that governs speech about vaccines, COVID-19, cancer treatments, abortion and many other topics.

4. Facebook and Twitter largely stopped censoring me after I declared my presidential candidacy. Google did not. Although Google has not censored every speech or interview that I have given that appears on YouTube, it has removed several high-profile speeches and interviews I gave, including my pre-announcement speech at the New Hampshire Institute of Politics and interviews I gave to Joe Rogan and Jordan Peterson.

5. Google's actions have created a chilling effect on my campaign. That chilling effect is especially challenging for me in challenging an incumbent president who has the support of the entire Democratic Party and the media, much of which has chosen to ignore my campaign, depriving us of the media opportunities candidates normally get. My campaign depends both on our ability to post raw content to YouTube and on third parties to post and share videos of my political speech.

6. Those hurdles would be great under ordinary circumstances, but they are even greater given that I am challenging an incumbent president whose administration, according to evidence gathered in other cases, targeted me specifically. The White House and other executive branch officials have repeatedly denounced me as a member of the "disinformation dozen" (a term coined by a pro-

copyright non-profit) and specifically called for technology companies to kick me off social media. In response, I have often had to engage in self-censorship, posting things like unicorns on certain platforms to avoid getting censored and removed from social media.

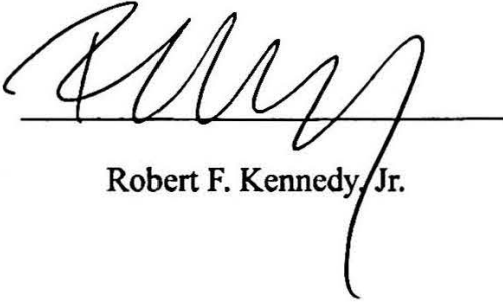
7. My lawyers, campaign staff and I have repeatedly asked Google to stop applying its misinformation policies to censor me during the presidential campaign. It refused. That led to the filing of this lawsuit and, following the district court's denial of our application for a temporary restraining order, to this emergency motion. I believe this censorship will increase as the primaries get closer and that emergency injunctive relief is the only thing that will prevent voters from having an unfettered chance to hear my views before they cast their ballots.

8. I understand that Google argued below, and the district court apparently concluded, that videos of my political speech on YouTube constitute "misinformation." That is a misnomer. To my knowledge, nobody has ever proven that something I said on YouTube was false, much less intentionally false. In fact, the government has increasingly targeted my speech not because it is false (it isn't) but because public health officials believe it is misleading or potentially harmful, and thus something they dub "malinformation." But, to my knowledge, nobody has ever produced any evidence that my speech about public health matters caused any harm to anybody.

9. I speak about public health matters the same way I have spoken about environmental, legal, and other matters during my career: in good faith, grounded in facts, and based on my sincere beliefs about what is best for the American people. People have always disagreed with me. I respect their opinions and have always welcomed more dialogue, not less.

10. My advocacy on those issues increased during the COVID-19 pandemic. Indeed, my decision to seek the Democratic Party's presidential nomination arose out of my experiences during the pandemic. I saw government and corporations manipulate the pandemic to increase their power and enrich themselves while destroying small businesses and trampling civil liberties. I saw the government's COVID-19 response, which included shutting down the global economy and then spending trillions of dollars to try to turn it back on at the right time, as the biggest public policy blunder in history. I saw billions of dollars in taxpayer money wasted on ineffective, and potentially unsafe, vaccines. I saw children's lives set back by the unprecedented and unnecessary forced closure of schools. Thus, the topics that Google has marked for censorship on YouTube are an integral part of my campaign. I cannot simply carve them out and talk about other things. Even if I could, I suspect that, if it is allowed to censor government dissent, Google will continue adding topics to the list of prohibited viewpoints, as it did recently with the amended medical misinformation policy.

Under penalty of perjury, under the laws of the United States of America, I
declare that the foregoing is true and correct. Executed this 7th day of September
2023, at Charleston, SC

A handwritten signature in black ink, appearing to read 'RFK Jr.', is written over a horizontal line. The signature is stylized with large, sweeping loops.

Robert F. Kennedy, Jr.

CERTIFICATE OF SERVICE

Robert F. Kennedy, Jr. v. Google, LLC, et al.
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23-16141

At the time of service, I was over 18 years of age and not a party to this action. I am employed by JW Howard/Attorneys, LTD. in the County of San Diego, State of California. My business address is 600 West Broadway, Suite 1400, San Diego, California 92101.

On September 11, 2023, I caused **DECLARATION OF ROBERT F. KENNEDY JR. IN SUPPORT OF HIS EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL** to be filed and served via the Court's Electronic Service upon the parties listed on the Court's service list for this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 11, 2023 at San Diego, California.

/s/ Dayna Dang
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